

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

LETTERS PATENT APPEAL No 753 of 1999

in

SPECIAL CIVIL APPLICATION No 5372 of 1997

with

CIVIL APPLICATION NO 9329 OF 1999

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : NO
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

RUTHBEN H MACWAN

Versus

BARODA MUNICIPAL CORPORATION

Appearance:

MR RAMNANDAN SINGH for Appellant
MR PRANAV G DESAI for Respondent No. 1
MR AD OZA for Respondent No. 2 & 3.

CORAM : MR.JUSTICE J.N.BHATT and
MR.JUSTICE H.K.RATHOD

Date of decision: 13/10/1999

ORAL JUDGEMENT

Admit. Mr. Desai, the learned advocate appearing for the respondent Corporation waives service of admission notice on behalf of the respondent Corporation. Mr. Oza, the learned advocate appears for and waives service of admission on behalf of respondent No. 2 and 3.

The appellant filed one petition being special civil application No. 5372 of 1997 challenging the impugned order of the respondent NO. 1 dated 9.6.97 and for setting aside the same pertaining to the special increments which were denied to be continued fixed by the Ahmedabad Municipal Corporation where the petitioner was working and from where she came to be transferred to the Vadodara Municipal Corporation School. It appears to us that this is not a case where recovery of an amount of Rs. 11,766.00 should be recovered after the superannuation and that too of a period more than a decade. Therefore, without entering into the other aspects stated in the petition, only on this ground, we are satisfied that the appellant must succeed. It is, therefore, directed that pursuant to the impugned recovery notice, no further action shall be taken.

It was stated on behalf of the appellant original petitioner that the petitioner's pension has not been released. Since the recovery chapter is to be ended, remaining process of pension shall be expedited and in case, if no any order is recorded within the reasonable period, it will be open for the petitioner to move appropriately for early fixation and payment of pensionary and other incidental dues. The appeal is allowed to that extent without any order of costs. Notice shall stand discharged.

In view of the above, there shall be no order on the civil application No. 9329 of 1999.

13.10.1999.

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Vyas